

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

BRANDON LEE,

Plaintiff,

v.

**9:12-CV-1018
(FJS/CFH)**

**MICHAEL GRAZIANO, Superintendent,
Greene Correctional Facility**

Defendant.

APPEARANCES

OF COUNSEL

BRANDON LEE
Amityville, New York 11701
Plaintiff *pro se*

**OFFICE OF THE NEW YORK
STATE ATTORNEY GENERAL**
The Capitol
Albany, New York 12224
Attorneys for Defendant

KEVIN M. HAYDEN, AAG

SCULLIN, Senior Judge

ORDER

Currently before the Court is Magistrate Judge Hummel's July 9, 2013 Report-Recommendation and Order, in which he recommended that this Court deny Defendant's motion for judgment on the pleadings, *see* Dkt. No. 67, and that, if the Court adopted his recommendations, the Court provide Plaintiff with thirty days from the date of its order to amend his complaint to include an Americans with Disabilities Act claim. The parties did not file any objections to these recommendations.

When a party does not object to a magistrate judge's report-recommendation, the court reviews that report-recommendation for clear error or manifest injustice. *See Linares v. Mahunik*, No. 9:05-CV-625, 2009 WL 3165660, *10 (N.D.N.Y. July 16, 2009) (citation and footnote omitted). After conducting this review, "the Court may 'accept, reject, or modify in whole or in part, the . . . recommendations made by the magistrate judge.'" *Id.* (quoting 28 U.S.C. § 636(b)(1)(C)).

The Court has reviewed Magistrate Judge Hummel's July 9, 2013 Report-Recommendation and Order for clear error and manifest injustice; and, finding none, the Court hereby

ORDERS that Magistrate Judge Hummel's July 9, 2013 Report-Recommendation and Order is **ACCEPTED in its entirety** for the reasons stated therein; and the Court further

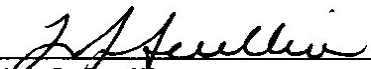
ORDERS that Defendant's motion for judgment on the pleadings is **DENIED**; and the Court further

ORDERS that, if he wishes to do so, Plaintiff may file an amended complaint to include an Americans with Disabilities Act claim, within thirty (30) days of the date of this Order. The court advises Plaintiff that any amended complaint must be a complete pleading that will replace and supersede the original complaint in its entirety and that he may not incorporate by reference any portion of the original complaint; and the Court further

ORDERS that the Clerk of the Court shall serve a copy of this Order on the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: August 14, 2013
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge